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TO: Internal File

THRU: Gregg A. Galecki, Reclamation Specialist/Hydrologist & Team Lead *AGT*

FROM: Paul B. Baker, Senior Reclamation Specialist/Biologist *PB*

RE: Whitmore Canyon Extension, West Ridge Resources Inc. West Ridge Mine,
C/007/041-PM01H

SUMMARY:

On October 24, 2001, the Division received a proposal to add part of a new lease to the permit area for the West Ridge Mine. Further information was received December 10 and December 24, 2001. There are deficiencies that need to be addressed before this proposal can be approved, including some associated with baseline wildlife information.

TECHNICAL ANALYSIS:

GENERAL CONTENTS

IDENTIFICATION OF INTERESTS

Regulatory Reference: 30 CFR 773.22; 30 CFR 778.13; R645-301-112

Analysis:

The applicant has updated address, telephone number, and land ownership information. The Division assumes other ownership and control information has not changed. As a safeguard to this assumption, regulation R645-301-112.900 requires that, after an applicant is notified that its application is approved but before the permit is issued, the applicant must update, correct, or indicate that no change has occurred in this information. In addition, the Division will need to check the ownership and control information in the applicant violator system (AVS).

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The names and addresses of surface and subsurface owners are in Sections 112.500 and 112.600, and Maps 5-1 and 5-2 show land ownership information. There is one inconsistency between Map the surface ownership map, Map 5-2 and the text. Map 5-2 indicates the Jay Pagano Estate owns surface land both within and contiguous to the permit area extension area, but the Jay Pagano Estate is not included in the text as an owner of surface lands contiguous to the permit area.

Findings:

Information provided in the proposal is not adequate to meet the requirements of this section of the regulations. Prior to final approval, the applicant must supply the following in accordance with:

R645-301-112, Land ownership information in the text needs to be consistent with information on Map 5-2.

After the application is approved but before the permit is issued, the applicant must update, correct, or indicate that no change has occurred in this information ownership and control information.

VIOLATION INFORMATION

Regulatory Reference: 30 CFR 773.15(b); 30 CFR 773.23; 30 CFR 778.14; R645-300-132; R645-301-113

Analysis:

There are no changes to this section, but the Division requires that violation information be updated for significant revisions, new permits, or similar changes. In addition, after an Division approves the application but before issuing the permit, the applicant must, as applicable, update, correct or indicate that no change has occurred in the information previously submitted under **R645-301-113**.

Findings:

Information provided in the proposal is not adequate to meet the requirements of this section of the regulations. Prior to final approval, the applicant must supply the following in accordance with:

R645-301-113, The applicant needs to submit updated violation information.

RIGHT OF ENTRY

Regulatory Reference: 30 CFR 778.15; R645-301-114

Analysis:

The applicant bases its legal right to enter and begin mining and reclamation operations on language in federal coal leases SL-068754-U-01215 and the newly-acquired lease SL-068754. In addition, the applicant has a lease with the School and Institutional Trust Lands Administration for a potential topsoil borrow area, so the total revised permit area would be 4306.61 acres. Legal descriptions of these leases and approval dates are shown in Table I-1. As discussed in the section of this analysis dealing with legal descriptions, there are a few problems with Table I-1 that need to be corrected.

Maps showing the permit area, including Map 5-2, show a small part of the main disturbed area extending south from the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 15, Township 14 South, Range 13 East. The pumphouse is in a small disturbed area in the NE $\frac{1}{4}$ of Section 21 of this same township. Neither the current mining and reclamation plan nor the current application contains right of entry information for these areas. In addition, it does not appear the acreage for these areas is included in any of the acreage figures for the permit area.

Findings:

Information provided in the proposal is not adequate to meet the requirements of this section of the regulations. Prior to final approval, the applicant must supply the following in accordance with:

R645-301-114, The applicant needs to provide right of entry information for the portion of the disturbed area extending south from the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 15, Township 14 South, Range 13 East and for the portion in Section 21 of this same township.

LEGAL DESCRIPTION AND STATUS OF UNSUITABILITY CLAIMS

Regulatory Reference: 30 CFR 778.16; 30 CFR 779.12(a); 30 CFR 779.24(a)(b)(c); R645-300-121.120; R645-301-112.800; R645-300-141; R645-301-115.

Analysis:

Section R645-301-114 of the application says West Ridge Resources holds 4297.01 acres of federal coal. Of this, 2650.67 acres is leased under lease SL-068754 and 1646.34 acres is

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leased under UTU-78562. The Division assumes lease SL-068754 is the same as SL-068754-U-01215.

There is one correction that needs to be made in Table I-1. For lease UTU-78562, Township 13 South, Range 13 East, Section 35, the application reads SE $\frac{1}{4}$, S $\frac{1}{2}$ W $\frac{1}{4}$. It should be SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$.

As discussed in the right of entry section of this analysis, neither the current plan nor the application contains a legal description of the portion of the disturbed area extending south from the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 15, Township 14 South, Range 13 East or for the portion in Section 21 of this same township.

There are no changes to the section on the status of unsuitability claims, and the Division is unaware of any petition to designate the area as unsuitable for mining.

Findings:

Information provided in the proposal is not adequate to meet the requirements of this section of the regulations. Prior to final approval, the applicant must supply the following in accordance with:

R645-301-116, One legal description in Table I-1 needs to be corrected. In addition, the application needs to include a description of the portion of the disturbed area south from the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 15, Township 14 South, Range 13 East or for the portion in Section 21 of this same township.

PER.

Regulatory R.

3.17; R645-301-116.

Analysis:

The applicant has not requested a change in the permit term. The current permit will expire April 1, 2004.

Findings:

Information provided in the application is adequate to meet the requirements of this section of the regulations.

PUBLIC NOTICE AND COMMENT

Regulatory References: 30 CFR 778.21; 30 CFR 773.13; R645-300-120; R645-301-117.200.

Analysis:

The applicant will need to submit proof of publication after this application has been advertised. Also, the Division will need to evaluate any comments received from the public.

Findings:

At this time, the Division considers this section of the application to be complete; however, the applicant will need to submit proof of publication for inclusion into the application. Also, the Division will need to evaluate any comments from the public.

FILING FEE

Regulatory Reference: 30 CFR 777.17; R645-301-118.

Analysis:

The filing fee is not required for anything other than a new permit.

Findings:

Information provided in the application is adequate to meet the requirements of this section of the regulations.

ENVIRONMENTAL RESOURCE INFORMATION

HISTORIC AND ARCHEOLOGICAL RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.12; R645-301-411.

Analysis:

The current mining and reclamation plan contains summary information from several archaeological surveys conducted in the area. Two cultural resource sites were found in the proposed addition to the permit area, but neither of these was considered significant. There is one site just outside the proposed addition that was not evaluated for historical significance, but

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the consultant conducting the survey recommended that it be considered eligible until an evaluation could be done.

The application is required to contain maps as described under R645-301-411.141 and a supporting narrative which describe the nature of cultural and historic resources listed or eligible for listing in the National Register of Historic Places and known archaeological sites within the permit and adjacent areas. The description will be based on all available information, including, but not limited to, information from the State Historic Preservation Officer and from local archeological, historic, and cultural preservation agencies. The applicant has researched available cultural resource information and included it in the application as required.

Findings:

Information provided in the application is adequate to meet the requirements of the historic and archaeological resource information section of the regulations.

VEGETATION RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.19; R645-301-320.

Analysis:

For an increase in the permit area with no surface disturbance, the Division usually requires only general information about the vegetation communities in the new area. A map showing the vegetation communities in this area is generally sufficient.

The applicant has updated Map 3-1, General Vegetation Communities, to show the proposed addition to the permit area, but this map does not show the vegetation communities in this area. This map shows one of the three reference areas, and although another map shows all three of the reference areas, the Division prefers that Map 3-1 either show all of the reference areas or none.

The application includes a proposal to undermine portions of Grassy Trail Creek, but it needs to include a description of the riparian habitat in this area. The Division of Wildlife Resources considers any riparian vegetation in this area to be very important to wildlife. The current mining and reclamation plan includes a commitment to monitor the effects of underground mining on vegetation through infrared photography. The Division suggests using baseline color infrared and any other available photographs combined with ground truthing to describe the riparian vegetation. The Division does not necessarily need to have quantitative data; rather, a good qualitative description combined with the aerial photos should be adequate.

Findings:

Information in the application is not adequate to meet the vegetation resource information requirements of the regulations. Prior to final approval, the applicant must supply the following in accordance with:

R645-301-321, The applicant needs to include a map of the vegetation communities in the proposed addition to the permit area.

R645-301-322, The application needs to include a description of the riparian habitat in and near Grassy Trail Creek. Also, the statement in Sections 322.220 and 333 of the current mining and reclamation plan that there are no streams, wetlands, or riparian areas in the permit area and that all the streams are ephemeral in nature needs to be modified.

FISH AND WILDLIFE RESOURCE INFORMATION

Regulatory Reference: 30 CFR 784.21; R645-301-322.

Analysis:

Fish and Wildlife Information

The Division has consulted with the Division of Wildlife Resources about fish and wildlife information requirements, and their comments are addressed below.

Map 3-4A shows raptor nesting information, and it has been revised to show the proposed addition to the permit area. This map does not show any raptor nests in the proposed addition. The applicant needs to clarify whether the proposed addition was surveyed with no nests found or if it was not surveyed. This is not clear from the application. In addition, Section 333 of the current mining and reclamation plan contains a discussion about raptor surveys that needs to be updated.

According to revised Maps 3-4B, 3-4C, and 3-4D, the entire proposed addition to the permit area contains critical deer summer range and high value elk year long range, but it does not contain habitat for pronghorns.

Based on information from the Division of Wildlife Resources, the Division understands the Right Fork of Grassy Trail Creek, the fork the applicant plans to undermine, could not support a fishery; therefore, no information about the aquatic habitat in this area is required.

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Section 333 of the current mining and reclamation plan contains a statement that all drainages within the proposed permit area are ephemeral in nature. Also, Section 322.220 contains a statement that no streams, wetlands, or riparian areas are located in the permit area. These statements need to be modified. The current application says Grassy Trail Creek is intermittent, and information from the Division of Wildlife Resources indicates there are areas of riparian vegetation along the stream.

The application needs to contain a discussion of use of the area by bats and of potential impacts on bat populations.

The Division of Wildlife Resources considers the springs and other sources of free water in the area to be very important, and the applicant has been monitoring springs for baseline data and has committed to continue monitoring them. The Division considers this to be adequate.

Threatened and Endangered Species

On January 2, 2002, the Division received a letter from the Fish and Wildlife Service listing ten species that may occur in the area of influence of the proposed project. Some of these species were discussed in the original technical analysis for the West Ridge Mine with determinations that the area either contains no habitat or that the mine will have no effects. Those species that should not be affected and that were addressed in the original technical analysis are Graham beardtongue, bald eagle, and the black-footed ferret.

According to the *Utah Endangered, Threatened and Sensitive Plant Field Guide*, the Uinta Basin hookless cactus, *Sclerocactus glaucus*, grows in gravelly hills and terraces on Quaternary and Tertiary alluvium soils in cold desert shrub communities between 4700 and 6000 feet. The lowest elevation in the proposed addition to the permit area is about 7500 feet, and the soils are derived from Cretaceous deposits. The proposed addition to the permit area does not contain habitat for this species.

The application includes a letter from Chris Colt of the Division of Wildlife Resources saying he and another wildlife biologist surveyed most of the proposed addition to the permit area looking for potential Mexican spotted owl habitat. They do not feel the east-facing slope of Whitmore Canyon contains suitable habitat for Mexican spotted owls or that mining in these areas will adversely affect this species. The letter specifically says the Wildlife Resources employees do not feel mining in Section 1 and 12, Township 14 South, Range 13 East, and Section 35, Township 13 South, Range 13 East, will affect Mexican spotted owls. The areas included in the habitat survey and the areas in the sections mentioned covers the entire proposed addition to the permit area; therefore, the Division concludes that there will be no effects on Mexican spotted owls.

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The western yellow-billed cuckoo requires dense lowland riparian characterized by a dense sub-canopy or shrub layer (regenerating canopy trees, willows, or other riparian shrubs) within 333 feet of water for nesting. Overstory in these habitats may be either large, gallery-forming trees (33-90 feet) or developing trees (10-27 feet), usually cottonwoods. Nesting habitats are found at low to mid-elevations (2500-6000 feet) in Utah. Cuckoos may require large tracts (100-200 acres) of contiguous riparian nesting habitat; however, cuckoos are not strongly territorial and home ranges may overlap during the breeding season.

The applicant needs to supply information about the type of habitat along Grassy Trail Creek and include an analysis discussing whether this area could provide potential habitat for this species.

Findings:

Information provided in the proposal is not adequate to meet the requirements of this section of the regulations. Prior to final approval, the applicant must supply the following in accordance with:

R645-301-322, The applicant needs to clarify whether the proposed addition was surveyed for raptor nests with no nests found or if the area was not surveyed. Section 333 of the text of the mining and reclamation plan needs to be updated to discuss more recent raptor surveys.

R645-301-322, The application needs to contain a discussion of use of the area by bats and of potential impacts on bat populations.

R645-301-322, The Division does not have enough information in the application to determine whether there is potential that the western yellow-billed cuckoo could occur in the proposed addition to the permit area. The applicant needs to supply this information.

LAND-USE RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.22; R645-301-411.

Analysis:

The application includes no changes to the text of the land use resource information section of the plan. These land uses are grazing and wildlife habitat. Map 4-1 has been revised to show land uses and water rights in the proposed addition to the permit area. The surface of some of the new area is within a grazing allotment, but most of it is either private land or is not

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allotted. The current mining and reclamation plan indicates the permit area contains no land within the Wild and Scenic Rivers System, the National System of Trails, or within 100 feet of a cemetery.

Findings

Information in the application is adequate to meet the land use resource information requirements of the regulations.

MAPS, PLANS, AND CROSS SECTIONS OF RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.24, 783.25; R645-301-323, -301-411, -301-521, -301-622, -301-722, -301-731.

Analysis:

Archaeological Site Maps

Map 4-2, Archeology Map, has been updated with this submittal. It shows the locations of archaeological surveys that have been done in the area and of cultural resource sites.

Cultural Resource Maps

Map 4-2, Archeology Map, has been updated with this submittal. It shows the locations of archaeological surveys that have been done in the area and of cultural resource sites.

Permit Area Boundary Maps

The boundaries of the proposed addition to the permit area are shown on several maps, including the surface and subsurface ownership maps.

Surface and Subsurface Ownership Maps

Surface and subsurface ownership are shown on revised Maps 5-2 and 5-3.

Vegetation Reference area Maps

The current mining and reclamation plan contains a map showing the vegetation reference areas. Additional vegetation mapping information requirements are discussed in the "Vegetation Resource Information" section of this review.

Findings:

Information provided in the application is adequate to meet the requirements of this section of the regulations.

OPERATION PLAN

PROTECTION OF PUBLIC PARKS AND HISTORIC PLACES

Regulatory Reference: 30 CFR 784.17; R645-301-411.

Analysis:

No public parks or significant cultural resource sites are known to exist in the proposed addition to the permit area. Just outside the area is one site that might be eligible for listing in the National Register of Historic Places, but this site should not be affected by the mining operations.

Findings:

Information provided in the application is adequate to meet the requirements of this section of the regulations.

AIR POLLUTION CONTROL PLAN

Regulatory Reference: 30 CFR 784.26, 817.95; R645-301-244.

Analysis:

The current mining and reclamation plan contains a copy of the Air Quality Approval Order. Since this order does not apply to underground operations and since the applicant has not proposed any new surface facilities, no changes in the Air Quality Approval Order should be needed.

Findings:

Information in the application is adequate to meet the air pollution control plan section of the regulations.

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FISH AND WILDLIFE INFORMATION

Regulatory Reference: 30 CFR Sec. 784.21, 817.97; R645-301-322, -301-333, -301-342, -301-358.

Analysis:

Protection and Enhancement Plan

As discussed in the resource information section of this analysis, the application needs to contain a discussion about the potential for bat habitat and of the mine adversely affecting bats. When the Division receives this information, it will assess these effects.

The mining proposed in this application is similar to that already approved in the mining and reclamation plan, and the protection and enhancement plan in the current plan is considered adequate for the proposed mining.

Endangered and Threatened Species

Mining in the Whitmore Canyon area should have no effect on the threatened and endangered fish species of the upper Colorado River drainage. Water consumption in this area is considered to potentially adversely affect these fish species. The mine is currently using about 67 acre-feet of water annually. The applicant has not proposed to add new mining equipment that would increase water use, and in a telephone conversation on January 9, 2002, the applicant's representative, Dave Shaver, said mining in the Whitmore Canyon Tract will not increase water consumption. He said, in fact, that the mine has implemented water conservation measures that should decrease the amount of water being used below the consumption level currently approved.

In this review, the Division is asking for more information about whether there is potential western yellow-billed cuckoo habitat in the area. When it receives this information, it will assess the potential for adversely affecting this species.

According to information in the application, there is either no habitat for the Mexican spotted owl or mining will not affect this species.

Other species that may occur in the area will not be affected by this proposal for reasons discussed in the "Fish and Wildlife Resource Information" section of this analysis.

Bald and Golden Eagles

It is not clear from the resource information whether the proposed addition to the permit area was surveyed for the presence of raptor nests. If it was and the area contains no nests, no

protection measures are needed. If the area has not been surveyed, the Division needs the survey information before determining whether the commitments in the current mining and reclamation plan are adequate.

Wetlands and Habitats of Unusually High Value for Fish and Wildlife

Although the proposed addition to the permit area contains habitat of unusually high value for mule deer, the proposed mining should have little or no effect on this habitat. Therefore, a protection and enhancement plan is not needed.

Springs and streams in the area are considered very valuable for wildlife species, and the applicant is monitoring these water sources.

The application needs to contain information about the habitat in the area of Grassy Trail Creek. Depending of the type of habitat that occurs in this area, the Division may need to require additional protection, monitoring, or mitigation measures.

Findings:

Information provided in the proposal is adequate to meet the requirements of this section of the regulations at this time, but because the Division needs further baseline information, it is impossible to determine whether the rest of the fish and wildlife protection plan is adequate. When the Division receives this information, it may be necessary to include additional monitoring, mitigation, or protection measures.

VEGETATION

Regulatory Reference: R645-301-330, -301-331, -301-332.

Analysis:

The current mining and reclamation plan contains commitments to monitor the effects of subsidence on vegetation, and this is considered adequate for the area proposed to be added to the permit area. The plan also contains a plan for establishment of interim vegetation cover in operational areas.

Findings:

Information in the application is adequate to meet the requirements of this section of the regulations.

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RECLAMATION PLAN

POSTMINING LAND USES

Regulatory Reference: 30 CFR Sec. 784.15, 784.200, 785.16, 817.133; R645-301-412, -301-413, -301-414, -302-270, -302-271, -302-272, -302-273, -302-274, -302-275.

Analysis:

The applicant has proposed no changes to the postmining land uses, and the proposed mining activity should have no effect on these uses.

Findings:

Information in the application is adequate to meet the requirements of this section of the regulations.

PROTECTION OF FISH, WILDLIFE, AND RELATED ENVIRONMENTAL VALUES

Regulatory Reference: 30 CFR Sec. 817.97; R645-301-333, -301-342, -301-358.

Analysis:

The applicant has proposed no surface disturbing activities; therefore, no additional measures to protect wildlife and improve wildlife habitat during reclamation are needed.

Findings:

Information in the application is adequate to meet the requirements of this section of the regulations.

REVEGETATION

Regulatory Reference: 30 CFR Sec. 785.18, 817.111, 817.113, 817.114, 817.116; R645-301-244, -301-353, -301-354, -301-355, -301-356, -302-280, -302-281, -302-282, -302-283, -302-284.

Analysis:

The applicant has proposed no changes in the revegetation plan, and since no new surface disturbance is being proposed, no changes are needed.

Findings:

Information in the application is adequate to meet the requirements of this section of the regulations.

EXPERIMENTAL PRACTICES MINING

Regulatory Reference: 30 CFR Sec. 785.13; R645-302-210, -302-211, -302-212, -302-213, -302-214, -302-215, -302-216, -302-217, -302-218.

Analysis:

The applicant has an approved experimental practice, but the proposal should have no effect on this portion of the operation.

Findings:

Information in the application is adequate to meet the requirements of this section of the regulations.

RECOMMENDATIONS:

The application should not be approved until the deficiencies discussed in this memorandum have been adequately addressed.